

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF TEXAS  
SHERMAN DIVISION**

WAPP TECH LIMITED PARTNERSHIP and  
WAPP TECH CORP.,

Plaintiffs,

v.

BANK OF AMERICA, N.A.,

Defendant.

Case No. 4:21-cv-00670-ALM

JURY TRIAL DEMANDED

**PUBLIC VERSION**

**DECLARATION OF JOHN EMERY IN SUPPORT OF DEFENDANT BANK OF  
AMERICA'S SUR-REPLY IN OPPOSITION TO PLAINTIFF'S MOTION TO AMEND  
INFRINGEMENT CONTENTIONS**

[REDACTED]

I, John Emery, declare and state as follows:


1. I am the Sr. Technology Manager for Bank of America, N.A. ("Bank of America"). In this role, I oversee quality assurance and testing of Bank of America consumer mobile applications in the U.S. If called as a witness, I could and would testify competently to the information contained herein.

2. I understand from counsel that the plaintiff in this action asserts that Bank of America's use of [REDACTED] of infringing claim 1 of the '864 Patent. I also understand from counsel that the plaintiff's infringement allegations based on Bank of America's use of [REDACTED] require the use of a feature within [REDACTED] called [REDACTED] to simulate network characteristics and the use of a display window to show network data in or out.

3. Based on my personal knowledge and investigation, no Bank of America personnel has used this combination of features in the course of their work at Bank of America. Indeed, based on my personal knowledge and investigation, no U.S. Bank of America personnel has ever even used the [REDACTED] feature of [REDACTED] in the course of their work at Bank of America.

I declare under penalty of perjury that to the best of my knowledge the foregoing is true and correct.

Executed on July 29, 2022, in Gastonia, NC.

DocuSigned by:  
  
536E9A3FB60C4AA...  
John Emery